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VIA E-MAIL

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Honorable Alison J. Nathan, U.S.D.J.
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 615
New York, New York 10007
NathanNYSDCChambers@nysd.uscourts.gov

Re: *Braintree Laboratories, Inc. v. Cypress Pharmaceutical, Inc.*
Case No. 12-cv-6851-AJNVI

Dear Judge Nathan:

This firm represents plaintiff Braintree Laboratories, Inc. ("Braintree") in the above-referenced action.

On behalf of both Braintree and defendant Cypress Pharmaceutical, Inc. ("Cypress"), Braintree submits a status report, as ordered by the Court at the initial pretrial conference on January 18, 2013, on both this litigation and the related patent infringement litigation between Braintree and Novel Laboratories, Inc. ("Novel") in the District of New Jersey (Docket No. 3:11-cv-01341 (PGS) (LHG)). The litigation between Braintree and Novel involves the same patent at issue in this litigation and Novel's generic SUPREP[®] product:

Current litigation: The parties are progressing with discovery matters but are also continuing to discuss possible resolutions to the litigation.

Braintree v. Novel litigation:

- On January 18, 2013, Judge Peter Sheridan granted Braintree's motion for partial summary judgment of infringement by Novel of claims 15, 18, 19, 20, and 23 of U.S. Patent No. 6,946,149 ("the '149 patent"), and granted Braintree's motion for summary judgment with respect to Novel's third, fourth and fifth counterclaims. Judge Sheridan also denied both Novel's motion for summary judgment of non-infringement, and Novel's motion for summary judgment of obviousness with respect to the asserted claims of the '149 patent. Judge Sheridan issued a written opinion of his decisions.
- On January 22, 2013, Novel moved for reconsideration of Judge Sheridan's summary judgment ruling on the issue of infringement. On February 1, 2013, Judge Sheridan denied Novel's motion for reconsideration, making further findings and rulings on the record.

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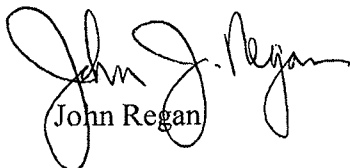
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- On February 4 and 5, 2013 Judge Sheridan held a bench trial with respect to Novel's claim that Braintree lacked standing to bring suit for infringement of the '149 patent. On February 6, Judge Sheridan rejected Novel's standing defense, finding that Braintree did have standing. Judge Sheridan made findings and rulings on the record on February 8 regarding his decision on standing.
- On February 5, 6, 8, 11 and 14, 2013, Judge Sheridan held a bench trial with respect to Novel's defense that the '149 patent is invalid. The evidence closed on February 14, and the Court took the issue of patent validity under advisement.
- The parties must submit initial findings of fact and conclusions of law on March 8, 2013 with respect to the validity issue, and responsive findings of fact and conclusions of law on March 22, 2013.

The parties will continue to update this Court, as necessary, regarding the status of the present litigation and the Braintree/Novel litigation.

Respectfully,



John Regan

Enclosures

cc: All counsel of record (by e-mail)

JJR:dln